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International Court of Justice

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1400 - 1430
22 July 1946
Dr. Kurt Wolf

H1040-0002

OFFICIAL TRANSCRIPT OF TESTIMONY FOR THE DEFENSE OF ORGANIZATIONS TAKEN BEFORE A COMMISSION APPOINTED BY THE INTERNATIONAL MILITARY TRIBUNAL PURSUANT TO PARAGRAPH 4 OF THE ORDER OF THE TRIBUNAL DATED 13 MARCH 1946.

MONDAY, 22 JULY 1946.

COMMISSIONERS:

Colonel A M S Neave
Mr. George R. Taylor.

THE SA.

(The Commission convened at 1400 hours)

COLONEL NEAVE: Before we start I want to clear up one point. I understand your position is that you do not wish to examine ~~this witness~~ the witness Mappes, but simply submit ~~an~~ his affidavit, is that it? And you are not bringing him before the Commission at all?

DR. ASCHENAUER: Yes.

COLONEL NEAVE: Originally, I thought you were going to submit the affidavit when the witness was brought in and have the Prosecution cross examine him.

DR. ASCHENAUER: I have the intention to submit the affidavit on next Wednesday, together with other affidavits, and whether there is any cross examination or not I will leave to the Prosecution. If the Prosecution wishes to have a cross examination it can make a proposal in this direction.

COLONEL NEAVE: Well, I think we will leave it

H1040 - 0003

at that, that the affidavit of Mappes will be submitted on Wednesday, and if the Prosecution have any comments to make on it they will do so at that time.

DR. ASCHENAUER: Yes.

COLONEL NEAVE: I simply wanted to get this clear for the benefit of the Prosecution.

****

MR. TAYLOR: Will the witness please stand and give his name to the Court Reporter?

WITNESS: DR. Kurt Wolf, born on October 3, 1905, a lawyer.

H1040-0004

BY THE COMMISSIONER:

Raise your right hand and repeat the following oath after me:

I swear by God, the Almighty and Omniscient, that I will speak the pure truth and will withhold and add nothing.

(The witness repeated the oath.)

THE COMMISSIONER: You may sit down. Proceed, Doctor, with the examination of the witness.

DIRECT EXAMINATION

BY DR. ASCHENAUER:

Q When did you become a member of the NSDAP?

A It was in October 1933 that I became a member of the NSDAP.

Q When did you become a member of the SA?

A I became a member of the SA in March 1931.

Q What rank did you hold in the SA?

A I was Ehrenfuehrer in the rank of a Sturmbannfuehrer, without having any special duties.

Q What were your special duties?

A I was assigned as a legal adviser in the courts.

Q This was for special cases?

A Whenever there was a special case I was assigned to act as legal adviser.

Q During the period from 1930 to 1933 were you frequently defense counsel for the SA?

A Yes, I handled many cases.

Q What was the basis of the trials against SA men?

A The basis for these trials consisted of emergency decrees, police decrees, and of the law for the protection ~~for~~ of the republic. Furthermore, it consisted of the various provisions of criminal law.

H1040-0005

Q Did you act, in your capacity as SA lawyer, because the NSDAP could be reproached with illegal acting in its fight for power?

A No, by no means.

Q Was it a question of terror against ideological enemies?

A No, terror was not a principle of the SA. It was, on the contrary, strictly forbidden. As the SA came into contact with its political enemies it had, of course, to defend itself.

Q Had you any knowledge of SA members being in possession of arms?

A An order which was explicitly given by the Supreme Command of the SA strictly forbade the wearing of arms. We even went so far as to forbid the wearing of a stick as it was usually worn by members of the Stahlhelm.

Q Which were the organizations which actually wore arms?

A They were our political enemies of that period, namely the Reichshammer and Rotfront.

Q Was this order strictly observed?

A There was an order which entitled SA leaders on duty to search every man for weapons whenever there was a meeting. This was ment to avoid any incidents.

Q Were so-called old SA men expelled from the SA whenever they acted in contradiction to this order?

A We made no difference in this case.

Q What conditions had the German to fulfill when he wanted to become a member of the SA?

A The candidate had to have an absolutely clean police record.

Q Were SA men ever expelled from the SA when it was learned that they did not have a clean police record?

A Whenever it was learned that the candidate did not have a clean police record he was expelled from the SA.

H1040 - 0006

Q What were the consequences and the reparcussions of this order which forbade the wearing of arms during the time when the NSDAP fought for power?

A The consequences were that on the occasion of political incidents, meetings and parades, the SA had the most dead and wounded because they did not possess means to defend themselves.

Q How do you explain isolated cases of members of the SA after the NSDAP had taken the power?

A This was the consequence of the acceptance of certain SA members who had not been properly screened.

Q After the NSDAP had taken power in Germany did the Supreme SA Command approve of such excesses?

A No, these incidents were explicitly disapproved of and the Supreme Command declared publicly that it was against such incidents.

Q What were the consequences of such excesses?

A Whenever ~~mf~~ the commander of a unit or the Supreme SA Command learned of such incidents the offenders were handed over to the competent authority in order to be punished.

Q What were the consequences when these offenders were handed over to the competent authority?

A Whenever charges were made before the competent prosecutor the Unit of which the offender was a member was informed of this fact and he was removed from service until the end of the trial.

Q Were the SA men punished irrespective of the service they had rendered during the fight for power?

A In this respect it made no difference. Whenever a crime was committed by an SA man, whether he was old or new, he was punished according to the law. I would like to add something. I myself was in charge of such cases. I can tell

H1040 - 0007

you that all the offenders were punished according to the law. These cases were handled by the Amtgericht Munich and Landgericht Munich 1 and Landgericht Munich 2.

Q Were there any instructions which came from the Ministry of Justice to the public prosecutors to punish these members of the SA very severely?

A There was an order which was given by Hitler to the Ministry of Justice and which was passed on by the Minister of Justice to the various courts. This order said that old members of the Party should be punished in a very severe way because they were especially expected to show very firm discipline to subordinates under the laws.

Q According to this order members of the SA were punished in a more severe way?

A They were only punished in a more severe way whenever they were involved in such action which called for punishment.

Q Were the SA courts more severe than the Party courts?

A The SA courts were as a matter of fact much more severe than the Party courts. The Party courts showed much more leniency towards such offenders. In the Party court an offender was only temporarily expelled from the Party whereas in an SA court whenever such offenses took place the SA man was immediately and irrevocably expelled from the Party.

Q Can you state any individual cases as regards the difference between Party courts and SA courts?

A Yes. I can remember the following cases. There was one case against Standinger and his accomplices. This case was [redacted] handled by the Landgericht Munich 2. Standinger and his accomplices were members of the Supreme SA Command. Then there was another case in which a certain Waidinger, Otto, was involved. This case was handled by a Jury in the Amtsgericht Munich. Then a third case which I can remember is the case of a certain Winkler. In the first two cases the

H1040 - 0008

offenders were expelled from the SA but continued being members of the Party.

DR. ASCHENAUER: I have no further questions.

COMMISSIONER TAYLOR: Will you proceed with the cross-examination, Colonel Jones?

CROSS EXAMINATION

BY COLONEL GRIFFITH-JONES:

Q Was the SA Court a purely disciplinary court for members of the SA?

A It was a purely disciplinary court and only for SA men.

Q If an SA man committed a crime against the criminal law, for instance if an SA man committed murder, would he be tried by the SA court or by the ordinary State Judiciary?

A In such a case he was tried by the ordinary court and not by the SA court.

Q Would any proceedings be taken against him in the SA court for an offense like murder?

A When an SA man committed murder the case was brought before the ordinary court and the state prosecutor took up the case so that the ordinary court was in charge of the case.

Q And the SA court had nothing at all to do with it?

A No. The SA Court had only to decide whether after the ordinary proceedings the SA man was to be excluded from the SA or not.

H1040 - 0009

Q The Party Court, of course, was then the Supreme or Superior Court for the members of the Party, or any members of the Party.

THE INTERPRETER : The Doctor asks to repeat the question, that the question has been wrongly misunderstood.

THE WITNESS: Yes.

BY COLONEL GRIFFITH-JONES:

Q The Party Court had jurisdiction over members of the SA and SS, and other organizations, solong as their members were members of the Party?

A The Party Court had only the right to decide any cases where the SA men, or the SS men were tried in his or their capacity as member of the Party.

Q Now, there was a Supreme Court which I think was known as the Oberstes Parteigericht?

A Yes.

Q Was that the court having superior jurisdiction to the ordinary SA Court?

A The Oberstes Parteigeigericht was the Supreme Court for all members of the Party.

Q Did they have jurisdiction over members of the SA and SS and other Parties under its jurisdiction?

A No, not in the capacity as SA men, or SS men. Only in the capacity as Party member.

Q Did the Oberstes Parteigericht have jurisdiction in ordinary criminal matters such as murder?

A No, by no means.

Q Did it sometimes happen that the Fuehrer, or other leaders of the

H1040 - 0010

Party transferred ordinary criminal cases to be heard by the Oberstes Parteigericht rather than by the ordinary state tribunal?

A No, it was impossible.

Q Did that never happen even on special occasion?

A I can not remember any case.

Q Well, now, I want you to look at document PS 3063, which is US 332 (hands document to the witness) Now you know, witness, you should pay attention to me for a moment. You may sit down,but follow me and we will get at this together. Do you know that during the course of the demonstrations inNovember 1938, a considerable number of Jews were killed?

A I don't know that.

Q Do you mean to say as a member of the SS,and in a legal capacity, that you never heard of any Jews being killed during the November 1938 demonstration?

A No, I can not remember any killed.

Q I imagine that you were in Germany at the time?

A Yes. I was in Munich.

Q Well, then you take that for a moment. In fact, there were a number of people killed,and if you would lookat that report, you willsee that it is a report of the Supreme Party Court here, the Obersters Parteigericht, about the events,and short proceedings in connection withthe anti-Semitic demonstration on the 9th November,1938?

A I don't know anything about it.

Q I want you to look at it,and we will find out about it?

A Yes.

Q Will you look at page 3 ofthat particular document,and perhaps you can

H1040 - 0011

help him, Mr Interpreter, there is a paragraph commencing at the end, November 1938, the chief party court through reports of several party courts heard that this demonstration on 9th November had gone as far as plundering and killing of Jews to a considerable extent, and that they had already been an object of investigation by the police and the state prosecutor. Will you read that to the witness. Then you will see it goes on to say in the next paragraph, the deputy of the Fuehrer agreed with the interpretation of the chief party court that no prosecutions in any case should be investigated under the jurisdiction of the Party."

A Yes.

Q That is quite different to what you told me just now. That there was a deputy Fuehrer transferring cases of murder to the jurisdiction of the party court.

A I am not of this opinion. The report states that a number of such lootings and killings have already been tried by the ordinary courts. This is stated in paragraph one. Paragraph two states that these cases should be transferred to the Party Court in order to be examined and not in order to be tried.

Q Well, we will see that is the difference between examination and trying the cases, as we go on. You see, it then sets out the reasons why the deputy of the Fuehrer and the Chief Party Court think that these matters should be investigated by the Party and not by the state courts.

A May I read it?

Q Yes. You can read it together. You can read the first paragraph, as to the interesting time I will refer to the second paragraph. If I may summarize the first part, it says that it is desirable that these

H1040 - 0012

matters are to be tried by the party jurisdiction,and that it is not desired they they should reliably to be determined by the state courts without the chief party having the possibility of first obtaining clarification about the happenings and matters pertaining to them, so that if the occasion arises the Fuehrer could be asked in good time to cancel the proceedings of the state due to such considerations; Goering as deputy of the Fuehrer has entrusted secret state police and party jurisdiction with the investigations of the excessives. Now you drew my attention to the fact that these proceedings were investigations,and not a trial (Reads to the witness) You drew my attention quite probable to the fact that these proceedings were investigations and not trials.

A Yes.

Q And the object of those investigations was to enable the Party of the Fuehrer to cancel the trials in cases where the Supreme Party Court negotiated proceedings in order that the state court proceedings for crimes should be cancelled.

A It is for the first time I got any knowledge of such cases.

Q As an actual fact, do you know that these proceedings we are talking about were not simply investigations. Will you follow with me some of the items in the lists of cases, with which they dealt, and you will see that they impose penalties on the criminals. Do you see in the two lines after that last passage that you read, the Supreme Party Court has reserved for itself the investigation of killings, severe mistreatment, and moral crimes,and then it sets out a list of particular cases, and the penalties. Now the first one was a party member who committed a moral crime,and race violation upon a thirteen year old school girl. He was

H1040 - 0013

quite properly handed over to the ordinary criminal court. The next one, a Party member of SA, Sergeant Oberscharfuehrer committed theft,and he was expelled from the Party,and handed over to the public court also.

A Yes.

Q The next case is a SA Captain who was expelled for moral crimes against a Jewess,and was kept in protective custody.

A Yes.

Q Now in those three cases you will note that in no case was the crime murder, and in every case they were properly handed over to the state courts?

A Yes.

Q Now, look at No. 4, a SS Sturmbannfuenrer was given a warning and sentence of three years,and deprivation of ability to hold public office because of disciplinary violation, namely, killing a Jewess couple Selig in Heidelberg contrary to orders. The next case a SA Sturmbannfuehrer was deprived and again he was warned and sentenced to three years deprivation of ability to hold public office because he had shot a sixteen year old Jew, Herbert Stey, contrary to orders, after the completion of the drive. Now there is just two cases we have where no course of murder,and they did not appear to have been sent to the state court to be dealt with. The high supreme court Party tribunal has dealt with them themselves by depriving them of offices for three years. Do you think three years deprivation of offices is a suitable punishment for murder.

A No, by no means.

Q Why should these SA men be getting that sentence by the supreme Party court for killing of Jews.

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H1040 - 0014

A I want to clear up here my opinion that I determinably disapprove of such proceedings themselves to the existing German law, which gives me the feeling of horror that I am ashamed of in person and a s a German lawyer.

Q Does it give you a feeling of shame and horror that SA men should have murdered a sixteen year old Jew?

A I am ashamed of it, that gives me a feeling of horror.

Q Does it make you ashamed of yourself that you come here and tell these men that the SA never made use of violations except in self-defense?

A As long as I was in charge of cases for the SA men the whole situation was as I have described it.

Q Do you think that the killing of two Jewess,and the shooting of a Jewess child of sixteen years sounds as if they were defending themselves against armed political enemies?

A Gentlemen, these are excesses and isolated cases of which I disapproved,and they should have been punished. May I add something. These are exceptional cases,and they donot affect the situation of the SA men at large,but believe it is at the disposal of his fatherland by purely patriotic reasons.

Q What do you think I meant by saying that the killing of a sixteen year old Jewess was contrary to orders after the completion of the drive?

A I can not imagine anything. I would have to know the whole situation.

Q Do you think that this killing of sixteen year old Jewess during the drive,and before the completion of the drive would not have been in contravention of orders?

A No, I can not interpret it this way.

H1040-0015

Q Well, now, you say that those are isolated cases?

A Yes, those are isolated cases in an organization which included millions. The SA had four and one half millions in membership.

Q Will you please look back at that document, Dr. Aschenauer, and look at number 6, look at the paragraph following number 5. You see, it says in the following cases of killings of Jews proceedings were suspended, or minor punishments pronounced so that presumably three years' deprivation of office in the Party was not even considered a minor punishment. Now, may we just take these instances where minor punishments were pronounced or proceedings were suspended. You see No. 6, an SA Scharfuehrer and an SA Rottenfuehrer shoot a Jewish couple called Goldberg, and a Jew called Sinahson. So they get a minor punishment or proceedings suspended against them. They only murdered three Jews.

The next one shoots a Jew Rosenbaum, and a Jewess Zwienicki. That's only a couple of murders. Those two defendants concerned in that -- they were both SA members.

Now, the next one, an SA Sturmfuehrer, a young SA officer, and a Truppfuehrer and an SA Rottenfuehrer -- three SA men -- they killed a Jewess Zack and killed three other Jews and injured others.

The next one -- an SA Scharfuehrer and an SA

H1040-0016

Sturmann -- they only killed two people - a Jewess Naftali -- they killed only one and then injured a few more.

We will omit the next three because they don't appear to have involved SA men, only Party members and members of other organizations.

Just go down to number 12. Three SA members, or rather, 2 SA and one SS -- they only killed one person.

Then number 15 -- another SA Obertruppfuehrer killing a Jew of Polish nationality.

What have you got to say about that -- what possible explanation can there be to those proceedings other than that the SA were violent murderers, and that their actions were approved and condoned by the Nazi Party and government?

A For the time being I can state that this is a violation of the existing laws on the part of a supreme leadership. The competence of the several courts and of the disciplinary courts function as I have described it here.

Q It is a remarkable thing, isn't it, that this should have been the only occasion upon which SA members were committing murder and violence, just on that one night, that 9th of November 1938?

A Yes. (And here the witness goes into a long, heated answer.)

Q Now -- it is no use going on shouting or going

H1040 - 0017

on that way -- if you want what you say to be interpreted and taken down then you may speak more appropriately and slower.

COMMISSIONER: Will you, interpreter, interpret what the witness has said already?

INTERPRETER: Yes. Gentlemen, the SA was an organization which included four and a half million members. It is only natural that all kinds of elements should enter this organization from the most noble character to the most criminal. This was also the case in public agencies, where there were different elements among the officials.

BY COL GRIFFITH-JONES:

Q I have two questions to argue upon that. First of all, in 1938 the membership of the SA was only one and one-half million, wasn't it?

BY THE WITNESS:

A I don't know that.

Q Well, your organization has called its deputy chief of staff, Juettner, who has said so. If this evidence is of an equal value with yours, it may well be that it isn't worth taking any notice of... Are you prepared to accept it yourself?

A I do not know his testimony.

Q You would be prepared, would you, to accept that intelligence as correct if in fact he had said that?

H1040-0018

A I do not understand.

Q If Juettner has come here and told us that in 1938 - to be quite accurate - the membership of the SA was only one and one-half million -- are you prepared to accept that as a fact?

Dr. Aschenauer -- will you please confine yourself to one document before you, please; not turning to the other documents?

A (By the witness) The answer is yes, because he must have known about it.

Q And in 1933 the membership was four and one half million?

A As far as the supreme command of the SA knew we had four to five million members.

Q I just want to get the value of the significance. If Juettner said that it had been reduced from four and one-half million in 1934.

A I know by personal experience that the number of members of the SA was much more considerable in 1934 than it was later.

Q And he told us that it was reduced by eliminating all bad elements -- eliminating the people who had criminal records against them, and by instituting examinations of members, which entailed dismissal from the SA.

A This is only correct to a certain extent. The fact that the SA was reduced is in connection with the events

H1040 - 0019

of 13 June 1934, with the elimination of Roehm and with the later insignificance of the SA.

Q If the SA has been reduced by three and one half millions during the course of five years, and all the bad elements weeded out of it -- why do you say that it should be full of people -- or still contain many individuals -- who were prepared to do murder on the night of the demonstrations in November 1938?

A There are black sheep in every troop.

Q If these were only black sheep -- and exceptional black sheep -- why should the Supreme Party Court and the Deputy of the Fuehrer have gone out of their way to condone their murders?

A As a lawyer I can only declare that we are here in the face of a violation of the existing law - of which every German, every decent German, especially every decent German lawyer, must strongly disapprove.

Q I am asking you why should the highest court in the land have violated a law like this for the sake of a few black sheep whom nobody wanted?

A Why? I am too small a man, too insignificant as a lawyer, to understand the complications of these cases.

Q Well, now, will you look back at that document, please. And look on page 9.

THE WITNESS: May I add something in this respect?

H1040 - 0020

These were measures taken by the Supreme Party Court and by the Fuehrer and we in our capacity as SA men and in our insignificance, we could not exert any influence in these measures.

Q (continuing) ... Page 11, no, I beg your pardon - first, page 9. Do you see that on page 9, on that same report, the Supreme Party Court are asking the Fuehrer to quash the proceeding in the State Criminal Court aganst all those cases on the List No. 3-16, which involve murder? These were the cases which involved murder.

A Yes, this is a violation of the law committed by Adolf Hitler and for which Adolf Hitler is responsible.

Q The killings of those unhappy Jews - that was a violation of the law, also, wasn't it?

A Yes, that is clear.

Q Hitler was not responsible for that, but it was the SA men, wasn't it?

DR. ASCHENAUER: I want to draw your attention to the misunderstanding here. The name of Hitler is not mentioned in this document. The correspondence was made between Goering, Schneider and Goebbels....

COL GRIFFITH-JONES: It was Dr Aschenauer who brought in Hitler. Let's proceeding. It doesn't matter less.

BY COL GRIFFITH-JONES:

Q Now look on page 11. . .

H1040 - 0021

COMMISSIONER: The witness will confine himself to the document before him, and not keep leafing through the file. ... Interpret that to him, interpreter.

BY COL GRIFFITH-JONES:

Q ....And we see some of the reasons why the Supreme Party Court was asking the Fuehrer to quash these proceedings. You see the first line of page 11, or maybe the last line of your page 10: The public down to the last man realizes that political drives like those on the 9th of November were organized and directed by the Party, whether this is admitted or not. With all the synagogues burned down in one night it must have been organized in some way, and can only have been organized by the Party.

Now, look, will you, down again to the next paragraph: In such cases as when Jews were milled without an order, or contrary to orders, ignoble motives could not be determined. At heart the men were convinced that they had done a service to the Fuehrer and to the Party.

Then he goes on to say what the final aims of the judicial proceedings by the Supreme Party Court must be: On the one hand, to protect those Party comrades who, motivated by their decent national socialist attitude and initiative, had overshot their mark and, on the other hand, to draw the dividing line between the Party and these elements who for personal reasons basely misused the Party's national liberation battle against Jewery.

H1040 - 0022

Do you regard members of the SA as having decent national socialist attitude and initiative if they murdered Jews?

A No. Whoever deprives a man of his life is a murderer.

Q That wasn't the opinion of the Supreme Party Court, was it?

A No. I do not comply with this opinion of the Court.

COL GRIFFITH-JONES. I have no further questions.

THE WITNESS: ... What I have lived in my capacity as a lawyer, all these proceedings were legal and what we have just read here together -- those were the exceptions which were carried out on the initiative of the Supreme Party Leadership Corps.

COMMISSIONER: Let us recess now for ten minutes.

* * *

H1040 - 0023

(The Commission reconvened at 1607 hours)

COMMISSIONER: George R. Taylor

MR. TAYLOR: Does the defense have any re-direct examination?

DR. ASCHENAUER: Yes, I have five questions concerning this document.

RE-DIRECT EXAMINATION

BY DR. ASCHENAUER:

Q. I find in this document on the first page, the following sentences. "I thank you herewith for sending me the report of your special group concerning the already finished actions concerning the demonstrations at the time of the Anti-Jewish activities on the 9th and 10th of November, and which I have accepted for my information." Can one actually say that according to this document, the Party Court threw down an impossibility of trying these murders before a general court, or is that only a suggestion of the Reichsleitebuch (The Reichs Directive Book)?

A. It is in no way an attempt to make it impossible to have these people tried before a court, but it is merely a suggestion by the High Court upon the investigation which it carried out.

Q. On Page 9 of the document, I find the following sentences. "The order must change the responsibility from that one who carried out to the one that gave the order." Isn't it correct that the Reichsleitebuch (The Reichs Directive Book) is of the opinion that it is not right to prosecute the little man that carried out the orders, if the person that is actually responsible for it, in this case Goebbels, if he is left free?

A. I am of that opinion,yes.

H1040 - 0024

Q. Concerning the known opposition, the friction between Goebbels and Goering, don't you thank that Reichsleitebuch (The Reichs Directive Book) wanted to give Goering, with this document, a weapon against Goebbels?

A. I believe that.

Q. There is one further question. Would the Highest Party Court have any jurisdiction over the SA Court?

A. No.

Q. Doesn't that mean that the mentioned SA men were to be tried - be made responsible before an SA Court?

A. Without a doubt they would have been tried before an SA Court, if this had become known.

MR. ASCHENAUER:

~~Xx~~ And again I want to make one statement. The document is incomplete, all the editions which should give some information - all these things are missing. I have no further questions.

MR. TAYLOR: Col. Jones, any further questions?

COL. JONES: No sir.

MR. TAYLOR: The witness will be excused. The Commission will convene at 10 o'clock tomorrow morning.

Adjourned: 1615 hours.

The foregoing is a true and correct transcript of the testimony of DR. KURT WOLF, taken on 22 July 1946.

Genevieve Biolsi
REP. PC 14-21

Bernice Winkler
REP. PC 22-23

Rose W. Cook
Reporter (pp 1-2

Mabel A. Lesser
Reporter (pp 3-7

Charles J. Gallagher
Reporter (pp

CERTIFIED TO: ~~COMMISSIONER~~: Geo. R. Taylor
Commissioner

23

H1040 – 0025

OFFICIAL TRANSCRIPT OF TESTIMONY FOR THE DEFENSE OF ORGANIZATIONS TAKEN BEFORE A COMMISSION APPOINTED BY THE INTERNATIONAL MILITARY TRIBUNAL PURSUANT TO PARAGRAPH 4 OF THE ORDER OF THE TRIBUNAL DATED 13 MARCH 1946.

Monday, 22 July 1946.

COMMISSIONERS:

Colonel A.M.S. Neave.
Mr. George R. Taylor.

THE SA

(The Commission convened at 1400 hours)

COLONEL NEAVE: Before we start I want to clear up one point. I understand your position is that you do not wish to examine the witness MAPPES but simply submit his affidavit, is that it? And you are not bringing him before the Commission at all?

DR. ASCHENAUER: Yes.

COLONEL NEAVE: Originally, I thought you were going to submit the affidavit when the witness was brought in and have the Prosecution cross examine him.

DR. ASCHENAUER: I have the intention to submit the affidavit on next Wednesday, together with other affidavits, and whether there is any cross examination or not I will leave to the Prosecution. If the Prosecution wishes to have a cross examination it can make a proposal in this direction.

COLONEL NEAVE: Well, I think we will leave it at that, that the affidavit of MAPPES will be submitted on Wednesday, and if the Prosecution have any comments to make on it they will do so at that time.

DR. ASCHENAUER: Yes.

COLONEL NEAVE: I simply wanted to get this clear for the benefit of the Prosecution.

* * * * * * *

MR. TAYLOR: Will the witness please stand and give his name to the Court Reporter?

WITNESS: Dr. Kurt Wolf, born on October 3, 1905, a lawyer.

H1040 - 0026

BY THE COMMISSIONER:

Raise your right hand and repeat the following oath after me:

I swear by God, the Almight and Omniscient, that I will speak the pure truth and will withhold and add nothing.

(The witness repeated the oath)

THE COMMISSIONER: You may sit down. Proceed, Doctor, with the examination of the witness.

DIRECT EXAMINATION

BY DR. ASCHENAUER:

Q. When did you become a member of the NSDAP?

A. It was in October 1930 that I became a member of the NSDAP.

Q. When did you become a member of the SA?

A. I became a member of the SA in March 1931.

Q. What rank did you hold in the SA?

A. I was Ehrenfuehrer in the rank of a Sturmbannfuehrer, without having any special duties.

Q. What were your special duties?

A. I was assigned as a legal adviser in the courts.

Q. This was for special cases?

A. Whenever there was a special case I was assigned to act as legal adviser.

Q. During the period from 1930 to 1933 were you frequently defense counsel for the SA?

A. Yes, I handled many cases.

Q. What was the basis of the trials against SA men?

A. The basis for these trials consisted of emergency decrees, police decrees, and of the law for the protection of the republic. Furthermore, it consisted of the various provisions of criminal law.

Q. Did you act, in your capacity as SA lawyer, because the NSDAP could be reproached with illegal acting in its fight for power?

A. No, by no means.

Q. Was it a question of terror against ideological enemies?

A. No, terror was not a principle of the SA. It was, on the contrary strictly forbidded. As the SA came into contact with its political enemies

H1040-0027

it had, of course, to defend itself.

Q. Had you any knowledge of SA members being in possession of arms?

A. An order which was explicitly given by the Supreme Command of the SA strictly forbade the wearing of arms. We even went so far as to forbid the wearing of a stick as it was usually worn by members of the Stahlhelm.

Q. Which were the organizations which actually wore arms?

A. Then were our political enemies of that period, namely the Reichshammer and Rotfront.

Q. Was this order strictly observed?

A. There was an order which entitled SA leaders on duty to search every man for weapons whenever there was a meeting. This was meant to avoid any incidents.

Q. Were so-called old SA men expelled from the SA whenever they acted in contradiction to this order?

A. We made no difference in this case.

Q. What conditions had the German to fulfill when he wanted to become a member of the SA?

A. The candidate had to have an absolutely clean police record.

Q. Were SA men ever expelled from the SA when it was learned that they did not have a clean police record?

A. Whenever it was learned that the candidate did not have a clean police record he was expelled from the SA.

Q. What were the consequences and the repercussions of this order which forbade the wearing of arms during the time when the NSDAP fought for power?

A. The consequences were that on the occasion of political incidents, meetings and parades, the SA had the most dead and wounded because they did not possess means to defend themselves.

Q. How do you explain isolated cases of members of the SA after the NSDAP had taken the power?

A. This was the consequence of the acceptance of certain SA members who had not been properly screened.

Q. After the NSDAP had taken power in Germany did the Supreme SA Command

H1040 - 0028

approve of such excesses?

A. No, these incidents were explicitly disapproved of and the Supreme Command declared publicly that it was against such incidents.

Q. What were the consequences of such excesses?

A. Whenever the commander of a unit or the Supreme SA Command learned of such incidents the offenders were ha nded over to the competent authority in order to be punished.

Q. What were the consequences when those offenders were handed over to the competent authority?

A. Whenever charges were made before the competent prosecutor the Unit of which the offender was a member was informed of this fact and he was removed from service until the end of the trial.

Q. Were the SA men punished irrespective of the service they had rendered during the fight for power?

A. In this respect it made no difference. Whenever a crime was committed by an SA man, whether he was old or new, he was punished according to the law. I would like to add something. I myself was in charge of such cases. I can tell you that all the offenders were punished according to the law. These cases were handled by the Amtgericht Munich and Landgericht Munich 1 and Landgericht Munich 2.

Q. Were there any instructions which came from the Ministry of Justice to the public prosecutors to punish these members of the SA very severely?

A. There was an order which was given by Hitler to the Ministry of Justice and which was passed on by the Minister of Justice to the various courts. This order said that old members of the Party should be punished in a very severe way because they were especially expected to show very firm discipline to subordinates under the laws.

Q. According to this order members of the SA were punished in a more severe way?

A. They were only punished in a more severe way whenever they were involved in such action which called for punishment.

H1040 - 0029

Q. Were the SA courts more severe than the Party courts?

A. The SA courts were as a matter of fact much more severe than the Party courts. The Party courts showed much more leniency towards such offenders. In the Party court an offender was only temporarily expelled from the Party whereas in an SA court whenever such offenses took place the SA man was immediately and irrevocably expelled from the Party.

Q. Can you state any individual cases as regards the difference between Party courts and SA courts?

A. Yes. I can remember the following cases. There was one case against Standinger and his accomplices. This case was handled by the Landgericht Munich 2. Standinger and his accomplices were members of the Supreme SA Command. Then there was another case in which a certain Haidinger, Otto, was involved. This case was handled by a Jury in the Amtsgericht Munich. Then a third case which I can remember is the case of a certain Winkler. In the first two cases the

H1040 - 0030

offenders were expelled from the SA but continued being members of the Party.

DR. ASCHENAUER: I have no further questions.

COMMISSIONER TAYLOR: Will you proceed with the cross-examination, Volonel Jones?

CROSS EXAMINATION

BY COLONEL GRIFFITH JONES:

Q. Was the SA Court a purely disciplinary court for members of the SA?

A. It was a purely disciplinary court and only for SA men.

Q. If an SA man commited a crime against the criminal law, for instance if an SA man committed murder, would he be tried by the SA court or by the ordinary State Judiciary?

A. In such a case he was tried by the ordinary court and not by the SA court.

Q. Would any proceedings be taken against him in the SA court for an offense like murder?

A. When an SA man committed murder, the case was brought before the ordinary court and the State prosecutor took up the case so that the ordinary court was in charge of the case.

Q. And the SA court had nothing at all to do with it?

A. No. The SA court had only to decide whether after the ordinary proceedings the SA man was to be excluded from the SA or not.

Q. The Party Court, of course, was then the Supreme or Superior Court for the members of the Party, or any members of the Party.

THE INTERPRETER: The Doctor asks to repeat the qeustion, that the question has been wrongly misunderstood.

THE WITNESS: Yes.

BY COLONEL GRIFFITH JONES:

Q. The Party Court had jurisdiction over members of the SA and SS, and other organiz tions, so long as their members were members of the Party?

A. The Party Court had only the right to decide any cases where the SA men, or the SS men were tried in his or their capacity as members of

H1040 - 0031

the Party.

Q. Now, there was a Supreme Court which I think was known as the Oberstes Parteugericht?

A. Yes.

Q. Was that the court having superior jurisdiction to the ordinary SA Court?

A. The Oberstes Parteigegericht was the Supreme Court for all members of the Party.

Q. Did they have jurisdiction over members of the SA and SS and other Parties under its jursidction?

A. No, not in the capacity as SA men, or SS men. Only in the capacity as Party member.

Q. Did the Oberstes Parteigericht have jurisdiction in ordinary criminal matters such as murder?

A. No, by no means.

Q. Did it sometimes happen that the Fuhrer, or other leaders of the Party transferred ordinary criminal cases to be heard by the Oberstes Parteigerciht rather than by the ordinary state tribunal?

A. No, that iwas impossible.

Q. Did that never happen, even on special occasions?

A. I can not remember any case.

Q. Well now, I want you to look at document PS-3063, which is US-332 (hands document to witness). Now you know, witness, you should pay attention to me for a moment. You may dit down, but follow me and we will get at this together. Do you know that during the course of the demonstrations in November 1938, a considerable number of Jews were killed?

A. I don't know that.

Q. Do you mean to say as a member of the SS, and in a legal capacity, that you never heard of any Jews being killed during the November 1938 demonstrations?

A. No, I can not remember any killed.

Q. I imagine you were in Germany at the time?

A. Yes; I was in Munich.

Q. Well, then you take that for a moment. In fact, there were a number of people killed, and if you would look at that report, you will see that it is a report of the Supreme Party Court here, the Obersters Parteigericht, about the events, and short proceedings in connection with the anti*semitic demonstration on the 9th November 1938?

A. I don't know anything about it.

Q. I want you to look at it, and we will find out about it.

A. Yes.

Q. Will you look at page 3 of that particular document and perhaps you can help him, Mr. Interpreter, there is a paragraph commencing at the end, November 1938, the chief party court through reports of several party courts heard that this demonstration on 9th Noveber had gone as far as plundering and killing of Jews to a considerable extent, and that they had already been an object of investigation by the police and the state prosecutor. Will you read that to the witness. Then you will see it goes on to say in the next paragraph: "The deputy of the Fuhrer agreed with the interpretation of the chief party court that no prosecutions in any case should be investigated under the jurisdiction of the Party."

A. Yes.

Q. That is quite different from what you told me just now. That there was a deputy Fuhrer transferring cases of murder to the jurisdiction of the Party Court.

A. I am not of this opinion. The reports states that a number of such lootiugs and killings have already been tried by the ordinary courts. This is stated in paragraph one. Paragraph two states that these cases should be transferred to the Party Court in order to be examined and not in order to be tried.

Q. Well, we will see that is the difference between examination and trying the cases, as we go on. You see, it then sets out the reasons why the deputy of the Fuhrer and the Chief Party Court think that these matters should be investigated by the Party and not by the State Courts.

A. May I read it?

H1040 - 0032

Q. Yes. You can read it together. You can read the first paragraph, as to the interesting time I will refer to the second paragraph. If I may summarize the first part, it says that it is desirable that these matters are to be tried by the party jurisdiction, and that it is not desired they should reliably to be determined by the State Courts without the chief party having the possibility of first obtaining clarification about the happenings and matters pertaining to them, so that if the occasion arises the Fuhrer could be asked in good time to cancel the proceedings of the state due to such considerations; Goering, as deputy of the Fuhrer has entrusted secret state police and party jurisdiction with the investigations of the excesses. Now you drew my attention to the fact that these proceedings were investigations, and not a trial (Reads to the witness). You drew my attention quite probably to the fact that these proceedings were investigations and not trials.

A. Yes.

Q. And the object of those investigations was to enable the Party of the Fuhrer to cancel the trials in cases where the Supreme Court negotiated proceedings in order that the State Court proceedings for crimes should be cancelled.

A. It is for the first time I got any knowledge of such cases.

Q. As an actual fact, do you know that these proceedings we are talking about were not simply investigations. Will you follow with me some of the items on the lists of such cases, with which they dealt, and you will see that they impose penalties on the criminals. Do you see in the two lines after that last passage that you read, the Supreme Party Court has reserved for itself the investigation of killings, severe mistreatment, and moral crimes, and then it sets out a list of particular cases, and the penalties. Now the first one was a party member who committed a moral crime, and race violation upon a 13 year old school girl. He was quite properly handed over to the ordinary criminal court. The next one, a Party member of SA, Sergeant Oberscharfuhrer, committed theft, and he was expelled from the Party, and handed over to the public court also.

A. Yes.

H1040 – 0033

Q. The next case is an SA Captain who was expelled for moral crimes against a Jewess, and was kept in protective custody.

A. Yes.

Q. Now in those three cases you will note that in no case was the crime murder, and in every case they were properly handed over to the state courts?

A. Yes.

Q. Now, look at No.4, a SS Sturmbannfuhrer was given a warning and sentence of three years, and deprivation of ability to hold public office because of disciplinary violation, namely, killing a Jewish couple Selig in Heidelberg contrary to orders. The next case, a SA Sturmbannfuhrer was deprived, and again he was warned and sentenced to three years deprivation of ability to hold public office, because he had shot a sixteen year old Jew, Herbert Stey, contrary to orders, after the completion of the drive. Now there is just two cases we have where no course of murder, and they did not appear to have been sent to the state court to be dealt with. The High Supreme Court Party Tribunal has dealt with them themselves by depriving them of offices for three years. Do you think three years deprivation of offices is a suitable punishment for murder?

A. No, by no means.

Q. Why should these SA men be getting that sentence by the Supreme Party Court for killing of Jews?

H1040 - 0034

A. I want to clear up here my opinion that I determinably disapprove of such proceedings themselves to the existing German law, which gives me the feeling of horror that I am ashamed of in person and as a German lawyer.

Q. Does it give you a feeling of shame and horror that SA men should have murdered a sixteen year old Jew ?

A. I am ashamed of it, that gives me a feeling of horror.

Q. Does it make you ashamed of yourself that you come here and tell these men that the SA never made use of violations except in self-defense ?

A. As long as I was in charge of cases for the SA men the whole situation was as I have described it.

Q. Do you think that the killing of two jewess, and the shooting of a Jewess child of sixteen years sounds as if they were defending themselves against armed political enemies ?

A. Gentlemen, these are excesses and isolated cases of which I disapproved, and they should have been punished. May I add something. These are exceptional cases, and they do not affect the situation of the SA men at large, but believe it is at the disposal of his fatherland by purely patriotic reasons.

Q. What do you think I meant by saying that the killing of a sixteen year old Jewess was contrary to orders after the completion of the drive ?

A. I can not imagine anything. I would have to know the whole situation.

Q. Do you think that this killing of sixteen year old Jewess during the drive, and before the completion of the drive would not have been in contravention of orders ?

A. No, I cannot interpret it this way.

Q. Well, now, you say that those are isolated cases ?

A. Yes, these are isolated cases in an organization which included millions. The SA had four and one half millions in membership.

Q. Will you please look back at that document, Dr. Aschenauer, and look at number 6, look at the paragraph following number 5. You see, it says in the following cases of killings of Jews proceedings were suspended, or

H1040-0035

H1040 - 0036

minor punishments pronounced so th , presumably three years deprivation of office in the Party was not even c nsidered a min r punishment.

Now may we just take these instances where minor punishments were pronounced or proceedings were suspended. You see, No. 6, an SA Scharfuhrer and an SA Rottenfuehrer shoot a Jewish couple called Goldberg, and a Jew called Sinahson. So they get a minor punishment or proceedings suspended against them. They only murdered three Jews.

The next one shoots a Jew Ros nbaum, and a Jewess Zwienicki. That's only a couple of murders. Those two defendants concerned in that -- they were both SA members.

Now the next one, an SA Sturmfuehrer, a young SA officer, and a Trupp-fuehrer and an SA Rottenfuhrer -- three SA men -- they killed a Jewess Zack and killed three other Jews and injured others.

The next one -- an SA Scharfuhrer and an SA St urmann-- they only killed two people -a Jewess Naftali -- they killed only one and then injured a few more.

We will omit the next three becaus they don't appear to have involved SA men, only Party members and members of other organizations.

Just go down to number 12. Three SA members or rather 2 SA and one SS -- they only killed one person.

Then number 15 -- another SA Obertruppenfuehrer killing a Jew of Polish nationality.

What have you got to say about that -- what possible explanation can there be to those proceedings other than that the SA were violent murderers, and that their actions were approved and concoved by the Nazi Party and government ?

A. For the time being I can state that this is a violation of the existin lawson the part of a supreme leadership. The competence of the several courts and f the disciplinary courts function as I have described it here.

Q. It is a remarkable thing, isn't it, that this should have been the only occasion upon which SA members were committing murder and violence, just on that one night, that 9 th of November 1938 ?

H1040 - 0037

A. Yes (And here the witness goes into a long, heated answer.)

Q. Now -- it is no use going on shouting or going on that way -- if you want what you say to be interpreted and aken down then you may speak more appropriately and slower.

COMMISSIONER: Will you, interpreter, interpret what the witness has said already ?

INTERPRETER: Yes. Gentlemen, the SA was an organization which included four and a half million members. It is only natural that all kinds of elements should enter this organization fr m the most noble character to the most criminal. This was also the casein public agencies, where there were different elements among the officials.

BY COL GRIFFITH JONES:

Q. I have two questions to argue upon that. First of all, in 1938 the membership of the SA was only one and one-half million, wasn't it ?

BY THE WITNESS:

A. I don't know that.

Q. Well, your organization has called its deputy chief of staff, Juettner who has said so. If this evidence is of an equal value with yours, it may well be that it isn't worth taking any notice of ... . Are you prepared to accept it yourself ?

A. I do not know his testimony.

Q. You wold be prepared, would you, to accept that intelligence as correct if in fact he had said that ?

A. I do not understand.

Q. If Juettner has come here and told us that in 1938 - to be quite accurate - the membership of the SA was only one and one-half million -- are you prepared to accept that as a fact ?

Dr. Aschenauer -- will you please confine yourself to one document before you, please; not turning to the other documents ?

A. (By the witness) The answer is yes, because he must have known it.

Q. And in 1933 the membership was four and one half million ?

A. As far as the supreme command of the SA knew we had four to five million members.

H1040 - 0038

Q. I just want to get the value of the significance. If Juettner said that it had been reduced from four and one-half million in 1934.

A. I know by personal experience that the number of members of the SA was much more considerable in 1934 than it was later.

Q. And he told us that it was reduced by eliminating all bad elements -- eliminating the people who had criminal records against them, and by instituting examinations of members, which entailed dismissal from the SA.

A. This is only correct to a certain extent. The fact that the SA was reduced is in connection with the events of 13 June 1934, with the elimination of Roehm and with the later insignificance of the SA.

Q. If the SA has been reduced by three and one half millions during the course of five years, and all the bad elements weeded out of it -- why do you say that it should be full of people -- or still contain many individuals -- who were prepared to do murder on the night of the demonstrations in November 1938 ?

A. There are black sheep in every troop.

Q. If these were only balck sheep -- and exceptional black sheep -- why should the Supreme Party Court and the Deputy of the Fuehrer have gone out of their way to condone their murders ?

A. As a lawyer, I can only declare that we are here in the face of a violation of the existing law - of which every German, every decent German, especially every decent German lawyer, must strongly disapprove.

Q. I am asking you why should the highest court in the land have violated a law like this for the sake of a few black sheep whom nobody wanted ?

A. Why ? I am too small a man, too insignificant as a lawyer, to understand the complications of these cases.

Q. Well, now, will you look back at that document, please. And look on page 9.

THE WITNESS: May I add something in this respect ?

These were measures taken by the Supreme Party Court and by the Fuehrer and we in our capacity as SA men and in our capacity as SA men and in our insignificance, we could not exert any influence in these measures.

Q (continuing)... Page 11, no, I beg your pardon - first, page 9. Do you see that on page 9, on that same report, the Supreme Party Court are asking the Fuehrer to quash the proceeding in the State Criminal Court against all those cases on the List No. 3-16, which involve murder? These were the cases which involved murder.

A Yes, this is a violation of the law committed by Adolf Hitler and for which Adolf Hitler is responsible.

Q The killings of those unhappy Jews - that was a violation of the law, also, wasn't it?

A Yes, that is clear.

Q Hitler was not responsible for that, but it was the SA men, wasn't it?

DR. ASCHENAUER: I want to draw your attention to the misunderstanding here. The name of Hitler is not mentioned in this document. The correspondence was made between Goering, Schneider and Goebbels...

COL. GRIFFITH- JONES: It was Dr. Aschenauer who brought in Hitler. Let's proceed. It doesn't matter less.

BY COL. GRIFFITH-JONES:

Q Now look on page 11.....

COMMISSIONER: The witness will confine himself to the document before him, and not keep leafing through the file ... Interpret that to him interpreter.

BY COL. GRIFFITH-JONES:

Q .... And we see some of the reasons why the Supreme Party Court was asking the Fuehrer to quash these proceedings. You see the first line of page 11, or maybe the last line of your page 10: The public down to the last man realizes that political drives like those on the 9th of November were organized

H1040 - 0039

H1040 - 0040

and directed by the Party, whether this is admitted or not. With all the synagogues burned down in one night it must have been organized in some way, and can only have been organized by the Party.

Now, look, will you, down again to the next paragraph: In such cases as when Jews were killed without an order, or contrary to orders, ignoble motives could not be determined. At heart the men were convinced that they had done a service to the Fuehrer and to the Party.

Then he goes on to say what the final aims of the judicial proceedings by the Supreme Party Court must be: On the one hand, to protect those Party comrades who, motivated by their decent national socialist attitude and initiative, had overshot their mark and, on the other hand, to draw the dividing line between the Party and those elements who for personal reasons basely misused the Party's national liberation battle against Jewery.

Do you regard members of the SA as having decent national socialist attitude and initiative if they murdered Jews?

A No. Whoever deprives a man of his life is a murderer.

Q That wasn't the opinion of the Supreme Party Court, was it?

A No. I do not comply with this opinion of the Court.

COLONEL GRIFFITH-JONES: I have no further questions.

THE WITNESS:.... What I have lived in my capacity as a lawyer, all these proceedings were legal and what we have just read here together -- those were the exceptions which were carried out on the initiative of the Supreme Party Leadership Corps.

COMMISSIONER: Let us recess now for ten minutes.

(The Commission reconvened at 1607 hours)

COMMISSIONER: George R. Taylor

MR. TAYLOR: Does the defense have any re-direct examination?

DR. ASCHENAUER: Yes, I have five questions concerning this document.

H1040-0041

RE-DIRECT EXAMINATION

BY DR. ASCHENAUER:

Q I find in this document on the first page, the following sentences. "I thank you herewith for sending me the report of your special group concerning the already finished actions concerning the demonstrations at the time of the Anti-Jewish activities on the 9th and 10th of November, and which I have accepted for my information." Can one actually say that according to this document, the Party Court threw down an impossibility of trying these murders before a general court, or is that only a suggestion of the Reichsleitebuch (The Reichs Directive Book)?

A It is in no way an attempt to make it impossible to have these people tried before a court, but it is merely a suggestion by the High Court upon the investigation which it carried out.

Q On page 9 of the document, I find the following sentences. "The order must change the responsibility from that one who carried out to the one that gave the order." Isn't it correct that the Reichsleitebuch (The Reichs Directive Book) is of the opinion that it is not right to prosecute the little man that carried out the orders, if the person that is actually responsible for it, in this case Goebbels, if he is left free?

A I am of that opinion, yes.

Q Concerning the known opposition, the friction between Goebbels and Goering, don't you think that Reichsleitebuch (The Reichs Directive Book) wanted to give Goering, with this document, a weapon against Goebbels?

A I believe that.

Q There is one further question. Would the Highest Party Court have any jurisdiction over the SA Court?

A No.

Q Doesn't that mean that the mentioned SA men were to be tried - be made responsible before an SA Court?

A Without a doubt they would have been tried before an

H1040 - 0042

SA Court, if this had become known.

MR. ASCHENAUER: And again I want to make one statement. The document is incomplete, all the editions which should give some information - all these things are missing. I have no further questions.

MR. TAYLOR: Col. Jones, any further questions?

COLONEL JONES: No sir.

MR. TAYLOR: The witness will be excused. The Commission will convene at 10 o'clock tomorrow morning.

Adjourned: 1615 hours.

The foregoing is a true and correct transcript of the testimony of Dr. Kurt Wold, taken on 22 July 1946.

Rose W. Cook
Reporter

Mabel A. Lesser
Reporter

Charles J. Gallagher
Reporter

Genevieve Biolsi
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Bernice Winkler
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CERTIFIED TO: Geo. R. Taylor
Commissioner